



UNITED STATES DEPARTMENT OF LABOR

Paid Sick Leave for Workers on Federal Contracts: Overview of Proposed Rule



U.S. Secretary of Labor Thomas Perez has travelled across the country to talk with CEOs, workers caring for family members, and local elected officials about paid leave, including earned sick time. Above, he is shown with Imar Hutchins and staff of the Florida Avenue Grill, which offers paid sick time to its employees. Washington, D.C., Oct. 22, 2014. By Gary Fabiano for the U.S. Department of Labor.

“Because moms and dads should be able to stay at home with a sick child, because workers shouldn’t have to choose between their health and their job, because it is both morally right for workers and good for communities and the economy, President Obama chose to lead by example and require that companies doing business with the federal government provide paid sick leave to their workers.”

— U.S. Secretary of Labor Thomas E. Perez

Today’s working families must be responsible to their jobs, their families, their communities and their own health. But while illness and injury are natural occurrences, bound to hit all households, too many of today’s workplaces impose unnatural choices on workers – to choose between caring for a loved one or getting a paycheck when illness or injury strikes. About 40 percent of the total private-sector workforce, an estimated 44 million workers, do not have paid time off in order to recover from illness and care for family members and loved ones.

That leaves American workers facing impossible choices about how to balance obligations at home and on the job. Taking time off to go to the doctor can mean missing out on wages or running the risk of getting fired. It can mean delaying routine screenings so cancer is caught when it is too late instead of early when it can be stopped. It can mean being at work instead of being with an aged parent at the hospital. It can mean putting sick kids on the school bus instead of staying at home with them, much less taking them to the pediatrician.

Moreover, a lack of access to paid sick time is not just difficult for working families; it poses a health risk to us all and undermines employee performance in the workplace. We’ve all heard colleagues coughing and sneezing down the hall at work and wondered how long it would be until we caught their cold. And we know that when low-wage food-service workers have no choice but to work when they are sick, they run the risk of exposing customers to contagious illness.

President Obama signed Executive Order 13706 on September 7, 2015. This EO will guarantee workers on federal contracts

have access to paid sick time, up to seven days a year. Each year, federal contractors and subcontractors receive billions of dollars, funded by taxpayers, to provide services and perform construction work for government agencies that are tasked with doing work for the American people. This EO and the proposed regulations would:

- **Provide additional paid sick leave to an estimated 828,000 employees** of federal contractors, including an estimated 437,000 employees who currently receive no paid sick leave.
- **Provide economic security to working families** by allowing employees to earn paid time off, rather than risk losing a paycheck or a job, when the employee, a family member, or another loved one is sick or injured, needs preventive care, or is the victim of domestic violence, sexual assault or stalking.
- **Improve the health and performance of employees** of federal contractors and bring benefits packages offered by federal contractors in line with leading firms, ensuring they remain competitive in the search for dedicated and talented employees.
- **Protect the public health** of federal contractors' employees, customers and clients by ensuring employees are able to stay home when they are sick.

The Department of Labor has now issued a Notice of Proposed Rulemaking laying out the details of how the EO would be implemented, and it is seeking comments on a number of specific issues.

Summary of the NPRM:

- **Time accrued.** Employees would accrue 1 hour of paid sick leave for every 30 hours worked, up to 56 hours (7 days) in a year or at any point in time.
- **Uses of paid sick time.** Employees could use paid sick leave for:
 - Their own illnesses or other health care needs, including preventive care;
 - The care of a family member or loved one who is ill or needs health care, including preventive care; or
 - Purposes resulting from being the victim of domestic violence, sexual assault or stalking – or to assist a family member or loved one who is such a victim.
- **Accounts for continuation of existing PTO policies.** A contractor's existing paid time off policy could fulfill the EO's paid sick leave obligations, as long as the policy provided employees with at least the same rights and benefits as the NPRM requires (for example, employees would have at least 56 hours of leave per year, could use the time for the same reasons, and would receive the same pay and benefits they would have been entitled to if they had been working).

- **Certification.** Employers could require that employees using paid sick leave provide certification from a health care provider (or documentation from another source, if the leave is for purposes related to domestic violence, sexual assault or stalking) of the employees' need for leave if they use three or more days of leave consecutively.
- **Covered employers.** The NPRM would apply to employers entering into new contracts (meaning the solicitation was issued or contract was awarded on or after Jan. 1, 2017) covered by the Service Contract Act or the Davis-Bacon Act, concessions contracts and service contracts in connection with federal property or lands. That is, as proposed, contract coverage would be the same as [Executive Order 13658](#), Establishing a Minimum Wage for Contractors.
- **Covered employees.** The NPRM would apply to employees whose wages are governed by the Service Contract Act, Davis-Bacon Act or Fair Labor Standards Act, including those who qualify for an exemption from the FLSA's minimum wage and overtime provisions. The NPRM would only require that employees be allowed to accrue and use paid sick leave while working on covered contracts.
- **Carry-over.** Employees could carry over unused paid sick leave from year to year while they work for the same contractor on covered contracts, and they get their unused leave back if they return to work within a year of leaving a job on a covered contract.
- **Cash-out.** Contractors would not be required to pay employees for any unused paid sick leave when they leave their jobs.
- **Time used.** Employees could use as little as an hour of paid sick leave, or as much as all of the paid sick leave they have accrued, at a time.
- **Anti-retaliation.** Employers may not interfere with the accrual or use of paid sick leave and may not discriminate or retaliate against any employee for the exercise of rights under the EO or the proposed rule.
- **Consistent with existing law and regulations.** To facilitate implementation for contractors and ensure that the provisions are understandable for employers and employees, the NPRM proposes to adapt provisions from existing law to the extent practicable. The NPRM adopts definitions from the regulations implementing EO 13658, Establishing a Minimum Wage for Contractors; the regulations implementing the Family and Medical Leave Act; and other existing laws as appropriate. In addition, the proposed enforcement process is based primarily on existing mechanisms for enforcing prevailing wage laws and the Minimum Wage Executive Order.

For more details, please see "Fact Sheet: Proposed Rulemaking to Implement Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors" and Frequently Asked Questions available at <http://www.dol.gov/whd/flsa/eo13706/nprm.htm>.